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January 21, 2022

VIA ECF

The Honorable Paul G. Gardephe
United States District Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: United States v. Thomas Burton, 20 Cr. 397 (PGG)

Dear Judge Gardephe:

I write on behalf of Thomas Burton, with the consent of the Government and Pretrial Services, to request an extension of Mr. Burton's date of surrender, which is currently set for Tuesday, January 25, 2022, at 2:00 pm.

When we appeared before Your Honor for a sentencing hearing in this case on November 22, 2021, Your Honor recommended Mr. Burton for designation at FCI McKean. Your Honor also ordered that Mr. Burton surrender to the United States Marshal for the Southern District of New York if he had not yet received his designation from the Bureau of Prisons as of the surrender date.

As of today, January 21, 2022, Mr. Burton has not yet been designated to an institution by the Bureau of Prisons. Mr. Burton remains subject to restrictive release conditions, confined to his home except for medical appointments, meetings with counsel, and employment. Mr. Burton continues to work and, in fact, has sought opportunities to work additional hours, enabling him to financially contribute to his family and lay a foundation for a future with stable, legitimate employment. In addition, as the Court is no doubt aware, in recent weeks, rates of COVID-19 in the New York City area have been the highest of any time during the pandemic,¹ and BOP facilities, including MDC Brooklyn, are operating at their highest level of operational modifications, indicating a sustained increase in COVID-related indicators.² As of today, January

¹ *Tracking Coronavirus in New York City, N.Y.*, N.Y. Times, <https://www.nytimes.com/interactive/2021/us/new-york-city-new-york-covid-cases.html> (last visited Jan. 21, 2022).

² See Bureau of Prisons, *BOP COVID-19 Operational Levels*, https://www.bop.gov/coronavirus/covid19_modified_operations_guide.jsp (last visited Jan. 21, 2022).

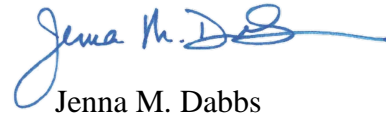
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21, 2022, BOP data show 78 confirmed active cases of COVID-19 among MDC Brooklyn inmates and staff and 34 MDC Brooklyn inmates with COVID-19 tests currently pending.³

Accordingly, we ask the Court to extend Mr. Burton's surrender date for a period of thirty (30) days, to Thursday, February 24, 2022. Both the Government and Pretrial Services have no objection to this request. This extension would allow Mr. Burton to continue his current employment until he is designated to an institution and save the government the expense of transporting Mr. Burton from the Southern District of New York to his designated facility. Further, given Mr. Burton's chronic health conditions, which include [REDACTED] and the present status of the COVID-19 pandemic, such an extension would allow Mr. Burton to avoid the recognized increased risk of infection presented by congregate living situations like federal prisons, at least until infection rates decline from their current peak.

Respectfully submitted,



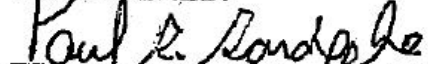
Jenna M. Dabbs

cc: AUSA Rebecca Dell
Ashley Cosme, Pretrial Services

MEMO ENDORSED

The Application is granted.

SO ORDERED:



Paul G. Gardephe, U.S.D.J.

Dated: January 24, 2022

³ See Bureau of Prisons, *COVID-19*, <https://www.bop.gov/coronavirus/> (last visited Jan. 21, 2022).